AO 106 (Rev. 04/10) Application for a Search Warrant *(Page 1)*

UNITED STATES DISTRICT COURT
for the
Northern District of New York

In the Matter of the Search of *(Briefly describe the property to be searched or identify the person by name and address)* (1) one pink Apple IPhone with a case bearing the model number A1784; (2) one pink Apple IPhone with a gold case Model#A1633; (3) one silver Apple IPhone Model#A1688; and (4) one black Alcatel cellular phone with MEID# 089712410302238217	Case No. 8:17-MJ-255 (GLF)

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property: *(identify the person or describe the property to be searched and its given location)*:

Please see Attachment A (incorporated by reference)

located in the Northern District of New York, there is now concealed *(identify the person or describe the property to be seized):*

Please see Attachment B (incorporated by reference)

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

☒ evidence of a crime;

☐ contraband, fruits of crime, or other items illegally possessed;

☐ property designed for use, intended for use, or used in committing a crime;

☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
21 USC 841(a)(1)	Possession with intent to distribute a controlled substance
21 USC 846	Conspiracy to possess with intent to distribute and to distribute a controlled substance

The application is based on these facts:

Click here to enter text.

☒ Continued on the attached sheet.

☐ Delayed notice of ____ days (give exact ending date if more than 30 days): Click here to enter a date. is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Attested to by the Applicant in Accordance with the Requirements of Rule 4.1 of the Federal Rules of Criminal Procedure.

Applicant's signature

Kevin Walczak, HSI

Printed name and title

Sworn to before me and signed in my presence.

Date: June 6, 2017

Judge's signature

City and State: Plattsburgh, NY

Hon. Gary L. Favro, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41 FOR A WARRANT TO SEARCH AND SEIZE

Kevin. Walczak, a Special Agent with Homeland Security Investigations, being duly sworn, deposes and states:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations (HSI). I have been a Special Agent with HSI since completion of the HSI Training Academy, in Glynco, Georgia in May 2009. I am a graduate of the HSI Asset Forfeiture and Financial Investigations course and the Organized Crime Drug Enforcement Task Force Money Laundering Course. I am currently assigned to the Drug Enforcement Administration (DEA) Plattsburgh Resident Office and have been so since October 2014. I work on the DEA Plattsburgh Task Force ("Task Force"), which comprises agents from the DEA, Homeland Security Investigations, United States Border Patrol, Clinton County Sheriff's Office, New York State Police, and Plattsburgh Police Department. I have participated in numerous narcotics investigations during the course of which I have conducted physical and wire surveillance, executed search warrants, and reviewed and analyzed recorded conversations and records of drug traffickers and money launderers. Through my training, education, and

experience (including debriefing cooperating drug traffickers and money launderers, monitoring wiretapped conversations of drug traffickers and money launderers, and conducting surveillance on numerous occasions of individuals engaged in drug trafficking and money laundering), I have become familiar with the manner in which illegal drugs are imported and distributed, the method of payment for such drugs, the various ways drug money is laundered, and the efforts of persons involved in such activities to avoid detection by law enforcement.

2. I have participated in the investigation and prosecution of complex narcotics enterprises, including major narcotics organizations. These investigations included the use of court-ordered eavesdropping. I have also conducted extensive analyses of telephone billing records for telephones used by narcotics traffickers. Members of the Plattsburgh Resident Office also have extensive experience in narcotics investigations, especially involving high-level narcotics traffickers and money launderers. I have had and continue to have conversations with them concerning this and other narcotics related investigations.

3. I have personally participated in the investigation set forth below. I am familiar with the facts and circumstances of the investigation through my personal participation; from discussions with other agents of the New York State Police (NYSP), Plattsburgh Police Department (PPD) and other law enforcement;

from my discussions with witnesses involved in the investigation; and from my review of records and reports relating to the investigation. Unless otherwise noted, wherever in this affidavit I assert that a statement was made, the information was provided by another agent, law enforcement officer or witness who may have had either direct or hearsay knowledge of that statement and to whom I or others have spoken or whose reports I have read and reviewed. Such statements are among many statements made by others and are stated in substance and in part unless otherwise indicated. Since this affidavit is being submitted for the limited purpose of securing an order authorizing the acquisition of the Requested Information, I have not included details of every aspect of the investigation. Facts not set forth herein, or in the attached exhibits, are not being relied on in reaching my conclusion that the requested warrant should be issued. Nor do I request that this Court rely on any facts not set forth herein in reviewing this application.

4. Probable cause exists to believe that the Requested Information, more fully described in Attachment A, will constitute or lead to evidence of offenses involving violations of: (1) 21 U.S.C. § 846 (Conspiracy to Possess with Intent to Distribute and to Distribute a Controlled Substance); (2) 21 U.S.C. § 841(a)(1) (Possession with Intent to Distribute a Controlled Substance); (3) 21 U.S.C. § 843 (Use of a Communication Device to Facilitate a

Drug Transaction); (the "TARGET OFFENSES"), as well as the identification of individuals who are engaged in the commission of these offenses, and more fully described in Attachment B.

IDENTIFICATION OF THE DEVICES TO BE EXAMINED

5. The property to be searched are: one pink Apple IPhone with a case bearing the model number A1784 seized from Shatoya A. LEE on May 18, 2017 (hereinafter "DEVICE #1"); one pink Apple IPhone with a gold case Model#A1633 seized from Stephen SCOTT on May 18, 2017 (hereinafter "DEVICE #2"); one silver Apple IPhone Model#A1688 seized from Stephen SCOTT on May 18, 2017 (herein "DEVICE #3"); and one black Alcatel cellular phone with MEID# 089712410302238217, seized from Stephen SCOTT on May 18, 2017 (hereinafter "DEVICE #4"), collectively the "DEVICES." The DEVICES are currently in custody of the Drug Enforcement Administration, at the Plattsburgh Resident Office (RO) in Plattsburgh, NY.

6. The applied-for warrant would authorize the forensic examination of the DEVICES for the purpose of identifying electronically stored data particularly described in Attachment B.

PROBABLE CAUSE

7. On Monday May 18, 2017, New York State Police Trooper Matthew Ross conducted a motor vehicle stop on a 2012 Gray Ford Taurus bearing the New York Registration DTM9463 on Interstate

87 near the town of Westport, Essex County, New York. Trooper Ross stopped the vehicle for speeding, a window tint violation, and inadequate brake lamps. Upon approaching the vehicle, Trooper Ross could immediately smell marijuana emanating from the vehicle. Trooper Ross identified the operator of the vehicle as, Shatoya A. LEE, of Queens, New York. Also present in the vehicle was a male passenger. When asked about where they were travelling to, Trooper Ross noted that LEE and the passenger gave conflicting statements. Both occupants denied having any marijuana, however, LEE stated the car belonged to her mother who would and did smoke marijuana in it. LEE advised that she was driving to Plattsburgh to pick up her son, who was staying with a relative. Trooper Ross asked LEE to exit the vehicle. Trooper Ross spoke with LEE at the rear of the vehicle and LEE stated the child was staying with his aunt and was in Plattsburgh for a funeral, however, LEE did not know the name of the aunt nor the location of where the aunt lived in Plattsburgh. LEE advised Trooper Ross that the passenger's name was "Brent Holloway."

8. Trooper Ross then spoke with the passenger who identified himself verbally as "Stephen Scott" and with a New York State Identification Card with the name S.J. Jacques-SCOTT. Trooper Ross asked SCOTT if he was in possession of any

marijuana, to which SCOTT replied "No." SCOTT consented to have his person searched by Trooper Ross. Trooper Ross conducted a pat down search of SCOTT. During the pat down search, Trooper Ross felt an unnatural cylinder-like object in the rear area of SCOTT'S pants. Upon Trooper Ross feeling the object, SCOTT stated to Trooper Ross that the object was marijuana. Unable to secure the object on the roadside of Interstate 87, Trooper Ross placed SCOTT in custody and transported him to the New York State Police (NYSP) Lewis Barracks for further examination. LEE and the 2012 Ford Taurus LEE was operating was also transported to the NYSP Lewis Barracks.

9. While at the NYSP Lewis Barracks, Trooper Ross and Trooper Roberts searched SCOTT further. Trooper Ross found a small amount of marijuana on SCOTT's person as well as the cylindrical object which was located in a rear pocket of SCOTT's underwear. After locating the cylindrical object, SCOTT informed Trooper Ross the item contained crack cocaine. A field test of the substance confirmed the substance was crack cocaine and weighed approximately 43 grams. The crack cocaine was individually packaged in small zip-lock baggies. I know from my training and experience, that narcotics dealers often package crack cocaine in small zip lock baggies for sale. Additionally, when searching SCOTT, Trooper Ross located "DEVICE #3" and

"DEVICE #4" on SCOTT's person. Trooper Ross and Trooper Roberts conducted a search of the 2012 Ford Taurus operated by LEE. During that search, Troopers Ross and Roberts located DEVICE#1 in the driver's area of the vehicle, and DEVICE #2 in the front center section of the vehicle. The "DEVICES" were later turned over to members of the DEA task force for processing.

10. Agents conducted a video and audio taped interview of SCOTT. After receiving his *Miranda* warnings, SCOTT told agents that the purchased the crack cocaine in New York City and was on his way to Plattsburgh. He stated he was going to rent a hotel room in Plattsburgh from which he was going to sell the crack cocaine.

11. Agents conducted a video and audio taped interview of LEE. After receiving her *Miranda* warnings, LEE told agents that SCOTT had contacted her and offered to pay her $300 to drive him from New York City to Plattsburgh to deliver crack cocaine. LEE stated she borrowed the car from her mother to drive SCOTT and she was expecting to be paid upon arriving in Plattsburgh or back in New York City.

12. From my training, experience, and knowledge of narcotics trafficking, your affiant is aware that narcotics traffickers often use cell phones to coordinate and arrange the

purchases or sales and delivery of narcotics, negotiate prices, and receive directions to meeting places, among other uses.

TECHNICAL TERMS

13. Based on my training and experience, I use the following technical terms to convey the following meanings:

a. Wireless telephone: A wireless telephone (or mobile telephone, or cellular telephone) is a handheld wireless device used for voice and data communication through radio signals. These telephones send signals through networks of transmitter/receivers, enabling communication with other wireless telephones or traditional "land line" telephones. A wireless telephone usually contains a "call log," which records the telephone number, date, and time of calls made to and from the phone. In addition to enabling voice communications, wireless telephones offer a broad range of capabilities. These capabilities include: storing names and phone numbers in electronic "address books;" sending, receiving, and storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet. Wireless telephones may also include global positioning system ("GPS") technology for determining the location of the device.

14. Based on my training, experience, and research, I know that the DEVICES have capabilities that allow it to serve as a wireless telephone and digital camera. In my training and experience, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the device.

ELECTRONIC STORAGE AND FORENSIC ANALYSIS

15. Based on my knowledge, training, and experience, I know that electronic devices can store information for long periods of time. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the DEVICES. This information can sometimes be recovered with forensics tools.

A. *Forensic evidence.* As further described in Attachment B, this application seeks permission to locate not only electronically stored information that might serve as direct evidence of the crimes described on the warrant, but also forensic evidence that establishes how the Device was used, the purpose of its use, who used it, and when. There is probable cause to believe that this forensic electronic evidence might be on these Device because:

a. Data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file).

b. Forensic evidence on a device can also indicate who has used or controlled the device. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence.

c. A person with appropriate familiarity with how an electronic device works may, after examining this forensic evidence in its proper context, be able to draw conclusions about how electronic devices were used, the purpose of their use, who used them, and when.

d. The process of identifying the exact electronically stored information on a storage medium that are necessary to draw an accurate conclusion is a dynamic process. Electronic evidence is not always data that can be merely reviewed by a review team and passed along to investigators. Whether data stored on a computer is evidence may depend on other information stored on the computer and the application of knowledge about how a computer behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.

e. Further, in finding evidence of how a device was used, the purpose of its use, who used it, and when, sometimes it is necessary to establish that a particular thing is not present on a storage medium.

B. *Nature of examination.* Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit the examination of the DEVICES consistent with the warrant. The examination may require authorities to employ techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of the device to human inspection in order to determine whether it is evidence described by the warrant.

C. *Manner of execution.* Because this warrant seeks only permission to examine a device already in law enforcement's possession, the execution of this warrant does not involve the physical intrusion on to a premises. Consequently, I submit there is reasonable cause for the Court to authorize execution of the warrant at any time in the day or night.

CONCLUSION

16. I submit that this affidavit supports probable cause

For a search warrant authorizing the examination of the "DEVICES" described in Attachment A to seek the items described in Attachment B.

REQUEST FOR SEALING

17. It is respectfully requested that this Court issue an order sealing, until further order of the Court, all papers submitted in support of this application, including the application and search warrant. I believe that sealing this document is necessary because the warrant is relevant to an ongoing investigation into the criminal organizations as not all of the targets of this investigation will be searched at this time. Based upon my training and experience, I have learned that online criminals actively search for criminal affidavits and search warrants via the internet, and disseminate them to other online criminals as they deem appropriate, i.e., post them publicly online through the carding forums. Premature disclosure of the contents of this affidavit and related documents may have a significant and negative impact on the continuing investigation and may severely jeopardize its effectiveness.

Respectfully submitted,

Kevin M. Walczak
Special Agent
Homeland Security
Investigations

Subscribed and sworn to before me
on June 6, 2017:

Hon. Gary L. Favro
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

IDENTIFICATION OF THE ITEM TO BE EXAMINED:

The property to be searched:

One pink Apple Iphone with a case Model #A1784, seized from Shatoya LEE on May 18, 2017, hereinafter "DEVICE #1." DEVICE #1 is currently in custody of the Drug Enforcement Administration, at the Plattsburgh Resident RO in Plattsburgh, NY. This warrant authorizes the forensic examination of the DEVICE for the purpose of identifying the electronically stored information described in Attachment B.

One pink Apple I-Phone with a gold case bearing the Model#A1633, seized from Stephen SCOTT on May 18, 2017, hereinafter "DEVICE #2." DEVICE #2 is currently in custody of the Drug Enforcement Administration, at the Plattsburgh Resident RO in Plattsburgh, NY. This warrant authorizes the forensic examination of the DEVICE for the purpose of identifying the electronically stored information described in Attachment B.

One silver Apple I-Phone with a gold case bearing the Model#A1688, seized from Stephen SCOTT on May 18, 2017, hereinafter "DEVICE #3." DEVICE #3 is currently in custody of the Drug Enforcement Administration, at the Plattsburgh Resident RO in Plattsburgh, NY.

This warrant authorizes the forensic examination of the DEVICE for the purpose of identifying the electronically stored information described in Attachment B.

One black Alcatel cellular phone bearing the MEID# 089712410302238217, seized from Stephen SCOTT on May 18, 2017, hereinafter "DEVICE #4." DEVICE #4 is currently in custody of the Drug Enforcement Administration, at the Plattsburgh Resident RO in Plattsburgh, NY. This warrant authorizes the forensic examination of the DEVICE for the purpose of identifying the electronically stored information described in Attachment B.

ATTACHMENT B

1. All records on the DEVICES described in Attachment A that relate to violations of Title 21 of the United States Code Sections 841 and 846 that involve Stephen SCOTT and Shatoya LEE and other coconspirators, including:

a. lists of customers and related identifying information;

b. types, amounts, and prices of drugs trafficked as well as dates, places, and amounts of specific transactions;

c. any information related to sources of drugs (including names, addresses, phone numbers, or any other identifying information);

d. any information recording SCOTT's, LEE's, or others' schedules;

e. all bank records, checks, credit card bills, account information, and other financial records.

2. Evidence of user attribution showing who used or owned the DEVICES at the time the things described in this warrant were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history;

a. records of Internet Protocol addresses used;

b. records of Internet activity, including firewall logs, caches, browser history and cookies, "bookmarked" or "favorite" web pages, search terms that the user entered into any Internet search engine, and records of user-typed web addresses.

As used above, the terms "records" and "information" include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored, including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.